

March 2003

CHARITABLE CHATTER

The Department of Charitable Gaming Newsletter

Commonwealth of Kentucky
Paul E. Patton, Governor

Cabinet for Public Protection and Regulation
Janie A. Miller, Secretary

The Department of Charitable Gaming Executive Staff

John Winstead, Commissioner
Carla Arnold, Deputy Commissioner

Leah R. Cooper, Director of Licensing & Compliance
Tom Gatewood, Principal Assistant

QUARTERLY REPORTS MUST BE POSTMARKED BY April 30, 2003

GOVERNOR NAMES NEW COMMISSIONER

Governor Paul Patton announced the appointment of John L. Winstead, Jr. as commissioner of the Department of Charitable Gaming, an agency of the Public Protection and Regulation Cabinet. Winstead replaces former Commissioner Ray Franklin who died December 12, 2002 from complications following a traffic accident.

Winstead has served as the director of the department's division of enforcement since 1998, where he directed and managed the investigation and auditing branches. Prior to his employment in state government, Winstead was a Louisville Division of Police officer and detective from 1972 to 1996, where he earned several commendations including exceptional valor.

"John's background in law enforcement and his knowledge of the charitable gaming industry will enable a seamless flow of the department's mission while ensuring that Ray Franklin's legacy of integrity and advocacy will be continued," said Gov. Patton. "I have full confidence in John's ability to ensure the productivity of charitable gaming through appropriate regulation, oversight and education."

"I share Governor Patton's confidence in John's leadership skills and look forward to working with him as commissioner," said Janie A. Miller, secretary of the Public Protection and Regulation Cabinet.

Winstead attended the University of Louisville and Eastern Kentucky University. He served on the board of directors of the Fraternal Order of Police Louisville Lodge #6 for 16 years and held other elected positions in the FOP including delegate, outer guard and vice president. Winstead lives in Louisville with his wife Gwynette. They have three daughters and three grandchildren.

FEE INCREASE

The budget recently enacted contains a fee increase for the Department of Charitable Gaming. Therefore, as of April 1, 2003, the organizations should pay the Department .53% of the gross receipts. If this amount is not paid when the Quarterly Report is submitted, the Department will invoice you for the remaining. No late fine will be charged if you file the report and pay the previous fee but do not pay the new fee. The Quarterly Report form will not be changed at this time.

As you know, the charitable gaming statute was originally passed in 1994 and contained a fee of .5%. At that time the agency had a personnel cap of almost half of what it does today. It did not have an enforcement division or peace officer powers and a surplus accumulated. In 1998 the agency was reorganized and the enforcement division was created. The personnel cap was almost doubled and the mission of the agency greatly increased. At the same time, most of the surplus was taken and the fee was reduced to .4%. Since that time the expenditures have exceeded the receipts but the agency has been using the remaining surplus to balance the budget. However, the surplus has been used and the agency would be out of balance in 2004.

GOPM calculated the fee necessary to bring the agency into balance was .53%. It was requested in the budget bill last year. However, no budget was passed. It was also in the proposed budget for this year but was taken out by the Senate. It was replaced by the Conference Committee. The fee balances the budget and allows for the continuing operation of the Department as required by the reorganization of 1998. It would impact the charities \$1.30 for every \$1,000 in gross revenue.

SLOT MACHINES ON CHARITABLE GAMING PREMISES

KRS 528.010 (4)(a) defines a "gambling device" as "[a]ny so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance any money or property." A person is guilty of promotion of gambling if they set up and operate a gambling device. KRS 528.020(2). Charitable Gaming has the jurisdiction to prosecute any crimes which occur on a charitable gaming premise. Therefore, if these machines are present, these cases will be prosecuted under KRS 238.990(1).

ELECTRONIC FILING AND ELECTRONIC PAYMENT

Some of you have asked when the Department will have the capability to accept filings (applications and/or quarterly reports) and payments electronically. The Department is working to achieve this capability and hopes to have both available within the year. Stay tuned for more developments.

SLOTS ON THE TRACKS

As many of you are aware, there was once again a bill presented to the legislature regarding allowing electronic gaming devices on the racetracks in Kentucky. The bill differed somewhat from last year. In fact, it was broader in its definition of the games allowed. The legislation did not pass but the Department is sure that the supporters will try again next year. The Department is preparing for the situation by studying the industry and what happens to charitable gaming when other forms of gaming enter the market. When these statistics are compiled we will make them available to you. The

Department is also preparing a specific list of proposals to present to the legislature in the event that they allow electronic gaming devices at the race tracks. The Department hopes to schedule "town meetings" for the eight (8) locations that would be affected. Please contact the Department with any ideas and suggestions that you might have.

GAMING TOGETHER

The question has arisen whether groups can sell packs and pull-tabs at the same time. This seems to arise in several situations:

- 1) church picnic or some type of festival where each group has a separate booth;
- 2) Tab-o-ramas where groups sell at the same time;
- 3) exempt group playing bingo and another group wants to sell pull-tabs; and
- 4) stacked sessions where both groups want to sell packs at the door and pull-tabs during both sessions.

The situation described in #3 is not allowed. It would defeat the purpose of an exempt license. As for the other situations, KRS 238.550(5) requires that accurate records be kept and KRS 238.550(1) requires that only officers, members and chairpersons handle adjusted gross receipts. KRS 238.540(1) states that "[n]o person shall serve as chairperson for more than one (1) charitable organization." Therefore, the other three (3) situations are allowed IF money, supplies, volunteers, etc. are not co-mingled. This means that there should be separate sales stations for patrons to buy bingo packs, packs should be a separate color, the volunteers must be separate and readily identifiable, the same type of pull tab cannot be on the floor at the same time, the money has to be kept COMPLETELY separate, and while the card minding devices can be rented at the same time and place, the customer should be issued two (2) different receipts for renting a card minding device, and they would have to be loaded with two (2) separate sessions.

FREQUENT PLAYER PUNCH CARDS

An organization cannot give players a card to get punched and after so many punches give them a free pack. It violates 820 KAR 1:040 Section 7 (6) which states that all door prizes must be initiated and awarded within a twenty-four (24) hour period.

"PICK-A-WINNER"

In this game very small pieces of paper are unfolded or pull-tabs are opened to win non cash prizes such as stuffed animals. Kids are attracted to playing this game. However, this is a pull-tab game and therefore players must be at least eighteen (18) years of age. Distributors might share in the blame if they present this as an option to the organizations who are asking for more children's' games.

CHAIRPERSON

KRS 238.505(24) defines a "chairperson" as the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the license application. KRS 238.550(1) provides that "[a]ll adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization."

KRS 238.540(4) provides that “[n]o person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping.” This means that no one can be paid for anything related to charitable gaming, including ordering supplies, corresponding with the Department, running the game, etc.

CHECK COLLECTION

Good news!! As you may know, previously checks written for charitable gaming were not collectible under Kentucky Off-Track Betting, Inc. v. McBurney, Ky., 993 S.W.2d 946 (1999). However, a new statute has been enacted. KRS 372.005 provides that “[t]he terms and provision of the chapter do not apply to betting, gaming, or wagering that has been authorized, permitted, or legalized, including, but not limited to, all activities and transactions permitted under KRS Chapters 154A, 230, and 238. Therefore, these checks are now collectible.

CHECK CASHING

KRS 368, et seq., requires that check cashing services be licensed. Services that are not licensed will be reported to the Department of Financial Institutions.

TAX TIP

For those of you that volunteer your time and efforts at charitable gaming sessions, there are some benefits in addition to the warm glowing feeling that you all get by knowing that you are benefiting your favorite charity. What I am referring to are **tax benefits**. And since we are now less than one month away from the dreaded April 15 deadline, I thought that this would be the appropriate time to discuss how your charitable activities may help you out with the taxman. Let me first mention that all of these tax tips are beneficial for you only if you itemize your deductions on the Schedule A to the Form 1040. If you take the standard deduction for your filing status, then this does not pertain to your situation. If you do itemize your Schedule A deductions or would like to, then these deductions may be beneficial to reducing your income tax liability.

If you make any donations during the gaming session, always write a check or get a receipt if you give cash. Any donation to a qualified charity is a valid deduction. However, you must keep documentation such as a cancelled check or a receipt. If you work as a volunteer, then the miles that you drive from your home to the gaming session and back are deductible at 14 cents per mile. Again, you must keep documentation of the miles you drive and dates those miles are driven. If you have to buy any special clothing to wear at the gaming session, the cost and upkeep can be a deduction. However, in the case of clothing, it must be something that you must wear while performing your charitable service and not suitable for everyday use. You cannot deduct the money that you may spend on raffle tickets, pulltabs or playing bingo, unless you have winnings to report as income. If so, then you can take a deduction on any losses up to the amount of winnings you have.

BUSY PHONE LINES

You complained that the 800 number was always busy and the Department heard!! Now the 800 line rolls over to the regular line with no charge to you. This should help with the busy phone line.

SESSION SHEETS

KRS 238.550(5) requires that “[a]ccurate records and books shall be maintained by ... each licensed charitable organization for a period of three (3) years.” Accurate records are those that can for each session:

- 1) be explained;
- 2) be math checked;
- 3) provide the actual number of patrons attending;
- 4) provide the number of sales of each type of paper pack and at what price;
- 5) provide the amount of start-up cash;
- 6) provide the amount of bingo receipts and pay-outs; and
- 7) provide the amount of pull-tab receipts and pay-outs.

RENEWALS

Renewal cards are back!!!! You will receive a renewal card ninety (90) days before your license expires. 820 KAR 1:015 Section 4 (1) provides that “[a] licensee wishing to renew its license shall make application to the department...no later than sixty (60) days prior to the expiration date on the renewal applicant’s current license.” 820 KAR 1:015 Section 4 (3) provides that [f]ailure to timely renew as directed in subsection (1) of this section may result in issuance of a renewal license after the expiration date of the application’s current license. Activities authorized by any license shall not continue after the expiration date on the license, and the licensee shall cease the activities until receipt of the renewal license.” Please get us the renewals at least sixty (60) days before you expire!!!!!!!!!!!!!!!!!!!!

TRAINING AVAILABLE

Don’t forget that training is available the first Tuesday of every month at the Department in Frankfort, KY. Please call and let us know when you can attend!! We will bring the training to you if there are at least twenty (20) people in your area that want the training. Please call and make those arrangements. We look forward to hearing from you!!!!